

## TAMAR BRIDGE AND TORPOINT FERRY JOINT COMMITTEE

### MAKING A REPRESENTATION CHALLENGING A VIOLATION NOTICE

If you want to challenge a Violation Notice then you have 28 days from the date of Service of the Notice to get your representation to us. You can do this provided you are the registered keeper in writing, by emailing [tollappeals@tamarcrossings.org.uk](mailto:tollappeals@tamarcrossings.org.uk), or by completing an online form and in each case, stating the grounds on which you make the representation.

#### *Key Points:*

- *Service is deemed to have been made at the time when the Notice would be delivered in the ordinary course of post. This is usually the next delivery date following posting.*
- *Representations must be made in writing or online.*
- *If you make a representation outside of the 28-day service period it will be considered as 'late' and we do not have to consider late representations. You cannot make a late representation online.*

**Do not delay in sending us your representation.** However, if you are prevented from making your representation in time we may use our discretion and consider it.

If you make a late representation please ensure that you provide evidence to outline why your representation is late. Forgetting to make a representation is not a valid reason but if you were prevented from making the representation due to illness or a holiday then enclose proof of these circumstances and it may be considered.

When we receive your representation, at our discretion we may freeze the remaining window available for payment. In such cases, it will remain frozen until we have completed our investigation and written back to you with our reply. We will consider this process fairly and where we have not done so we will explain why in our response.

Online processes for making a representation are available using forms available by following this LINK <hyperlink>. You will be required to add the violation number on your receipt and reasons why you think you should not have been issued with a Notice. You will also be able to add any supporting evidence related to your representation. Please note that loss of the receipt is not usually considered as a ground on which to modify the standard activation timetable for the enhanced fee.

## **Make a representation**

### **Online**

Online processes for making a representation will be available from early 2021. You will need to provide us with your Violation number and reasons why you think you should not have been issued with a Notice. You will also be able to add any supporting evidence related to your representation.

You still have 28 days from the date of service of the Notice, to either pay the amount recorded on the Notice or challenge the Notice by making a representation. The Notice states the full fee due within the 28 day window, after which additional costs associated with Court action may also be due.

### **In writing**

The easiest way to make a representation in writing (which may include use of e-mail addressed to [tollappeals@tamarcrossings.org.uk](mailto:tollappeals@tamarcrossings.org.uk)) is to complete the representation section provided as part of the Notice. Please ensure that you comply with the following:

- indicate on which ground you wish to make the representation
- add any details in the space provided (if you need more space attach a separate sheet remembering to write the Violation number on each extra sheet)
- enclose any supporting evidence
- sign and date the representation
- return the representation to Torpoint Ferry Office, 2 Ferry Street, Torpoint, PL11 2AX ensuring your representation is received before the end of the 28-day period beginning with the date of service of the Notice

Please also note the following

- It is the person or organisation named on the Notice who must make the representation, even if they were not the driver.
- The person named on the notice is normally registered keeper of the vehicle listed in the Notice (the notice is normally sent to the registered keeper of the vehicle as per the records of either the DVLA or DVANI).
- Alternatively, the person named on the notice may have been nominated hirer/lessee of the vehicle if a valid hire agreement is provided by the registered keeper. [Please note Representations to rebate the amount claimed on the Notice because of costs levied by the lessor or hire company will not be accepted].
- The registered keeper can make a representation on behalf of a third party
- We will NOT consider a representation from a third party unless the registered keeper provides us with written authorisation. If you have been passed the Notice by the registered keeper and wish to challenge the Notice, get the keeper to write in on your behalf or provide you with written authorisation to send in with your representation.
- We will always advise the registered keeper of the outcome of any investigation.

- If the registered keeper is a company and you are making a representation on behalf of the company please indicate your position and authorisation within the company when making your representation.

### Our response

When we have considered your representation we will write back to you with our response. You will be sent one of three things:

#### 1. A request for additional evidence

This means that we require further evidence from you to help us consider the points raised in your representation

The Notice will normally remain frozen for a number of days to provide you with adequate time to return the requested information.

If the required evidence is not received you will be issued with a notice of rejection (see 3. below) and we may reinstate the original payment schedule.

If the required evidence is received you will be issued with a notice of acceptance or a notice of rejection depending on whether we consider the evidence to be sufficient.

#### 2. A notice of acceptance

This means that you are no longer liable for the Notice

Please read the notice of acceptance carefully and follow the advice given as it will explain why you received the Notice and provide advice on how to avoid Notices in future

#### 3. A notice of rejection

This means that we believe you are still liable for the Notice. Please read the notice of rejection carefully and follow the advice given.

We will have assessed your representation in terms of the grounds for representation, any mitigating circumstances and will have considered the use of our discretion.

We will tell you how much you must pay and how to pay. Not paying will mean an increase in the amount you owe and enforcement action continuing.

We will tell you about your right to appeal to the Governance and Finance Manager

We may ask you for additional information. If this is the case then follow the advice given and return the information to us within the time stipulated.

**Do not do nothing if we ask for additional information**

### **Grounds for making a representation**

A representation may be made on one of six grounds, or if none of these are applicable you may state the reasons why you do not believe that you are liable for the Notice. The grounds for representation are consistent with those used for Penalty Charge Notices imposed for congestion charges. It is for you to prove that you meet any of these grounds.

The six grounds are:

- I was not the keeper at the time of the contravention, eg I have never been the keeper, I ceased to be the keeper, I became the keeper after the date of the contravention;
- I had paid the toll due for the vehicle used on that date, in the time and manner required by Tamar Bridge and Torpoint Ferry;
- no penalty charge is payable under the toll regime, eg I crossed using an exempt vehicle and complied with the rules to access the associated exemption or concession;
- the vehicle was used or kept without my consent, eg stolen;
- the fee recorded on the notice exceeds the amount payable in the circumstances of the case, eg I have been requested to pay a penalty charge amount above that authorised by the Tamar Bridge and Torpoint Ferry Joint Committee and/or the Toll Order in place at the time of crossing;
- The notice is addressed to a vehicle hire company and the vehicle was hired under an agreement at the time and the person liable signed a statement of liability for any resulting penalty charges.

If none of the six grounds are applicable you may still make a representation to us, explaining your circumstances and we will carefully consider these.

**Ground one: I was not the keeper at the time of the contravention, eg I have never been the keeper, I ceased to be the keeper, I became the keeper after the date of the contravention.**

This ground is defined as follows.

That the recipient:

- never was the registered keeper in relation to the vehicle in question, or;
- had ceased to be the person liable before the date on which the vehicle was used to cross the Tamar using the Tamar Road Bridge or Torpoint Ferry, or
- Became the person liable after the date of crossing.

*The person liable for the charge recorded in the Notice is the registered keeper of the vehicle at the time of the crossing as recorded by the DVLA/NI DVA. We therefore contact the relevant agency to identify the name and address of the registered keeper on the day of the related crossing so that the Notice can be issued to that person.*

*As there is a legal requirement for the DVLA/NI DVA to be notified of any change in the details of the registered keeper, including name and address, any failure to do so may mean that you are still liable for the fee recorded in the Notice.*

*If you have received a Notice for a vehicle that you have sold, or ceased to be the registered keeper of, and you have not told the DVLA/NI DVA of the change of keeper prior to the date of the related crossing again you may remain liable for the fee.*

You should provide as much evidence as possible to support your representation under Ground 1. This may include:

- *A copy of the V5C notification sent to the DVLA/NI DVA detailing the name and address of the new keeper and confirmation of when it was sent, and/or*
- *A bill of sale showing the date of sale and the name and address of the new keeper, and/or*
- *A part-exchange notice from a garage, showing their name and address, that fully identifies the vehicle and when it was taken in part exchange, and/or*
- *An invoice showing the relevant vehicle registration, its date of sale and the full name and address (including post code) of the person/garage it was sold to, and/or*
- *A confirmation letter from the DVLA/NI DVA stating they accept you are not the keeper of the vehicle and the letter includes the dates you notified them and the date they accept when the change of keeper took place, and/or*
- *If your vehicle was returned/repossessed under a finance agreement, documentary evidence from the finance company that they have received your vehicle and confirming the date the vehicle was removed/repossessed*
- *If you purchased the vehicle or believe you became liable after the date of the related crossing you should provide as much evidence as possible to support your representation.*

*This may include:*

- *A copy of your V5C notification sent to you as the new keeper from the DVLA/NI DVA, and/or*

- *An invoice showing the relevant vehicle registration with its date of sale to you and the full name and address (including post code) of the person/garage who sold you the vehicle, and/or*
- *A bill of sale showing the date of sale and the name and address of the previous keeper, and/or*
- *A confirmation letter from the DVLA/NL DVA stating they accept you are the new keeper of the vehicle also confirming the date they accept that the change of keeper took place*
- *If you believe that the vehicle is not your vehicle, your representation to us will need to be supported by as much evidence as possible. This may include:*
  - *Proof the vehicle was at a different location at the time of the crossing using a 'tracker report', statements from colleagues or neighbours asserting the vehicle was at a different location*
  - *Photos of your vehicle (front, back and both sides) that show a difference in the vehicle, eg number plate/distinguishing marks*
  - *Proof that a crime has been previously reported to the police regarding the vehicle for example if stolen or if a vehicle is breaking the law by displaying the same vehicle registration mark (referred to as 'cloned' or 'ringed' vehicles). This should include the name and telephone number of the police station it was reported to along with the relevant incident or crime reference number*
  - *Confirmation from another enforcement agency, eg police or local authority, outlining that they have confirmed the vehicle is cloned/ringed for us to consider*

We will always consider the use of our discretion if you supply details and evidence of any mitigating circumstances.

**Ground two: I had paid the toll due for the vehicle used on that date, in the time and manner required by Tamar Bridge and Torpoint Ferry**

This ground is defined as follows.

*That the charge payable for the crossing of the Tamar using the Tamar Road Bridge or Torpoint Ferry on the occasion in question was paid at the time and manner required by our rules.*

This means that the toll must be paid for the actual vehicle that used the bridge or ferry and for the actual time and date. You must ensure that the vehicle paid for matches that of the vehicle used.

If making a representation on this ground then you need to prove that you have paid the charge for the correct vehicle registration number and correct date and time (the contravention date and time).

The easiest way to do this is to provide your receipt showing all the details (when paying the toll by cash, a receipt is always provided at Torpoint Ferry and available on request at Tamar Bridge toll booths)

Check that the date of travel matches that shown on the Notice. If these details do not match then this is may be why you have received the Notice.

If you do not have your receipt then you could demonstrate that you have paid if you used a credit or debit card. Provide a copy of your credit/debit card statement, date of payment and the credit/debit card number and we will try to trace your payment.

If you paid using a TamarTag, please provide the transaction reference on your statement to enable us to trace the payment.

Remember: You need to provide proof that the toll was paid.

We will always consider the use of our discretion if you supply details and evidence of any mitigating circumstance.

**Ground three: no penalty charge is payable under the toll regime, eg I crossed using an exempt vehicle and complied with the rules to access the associated exemption or concession.**

This ground is defined as follows

*That no penalty charge is payable under the toll regime.*

There are a very small number of circumstances which may be applicable as most exemptions require either pre-registration or bridge control room authorisation before barriers are lifted. You must evidence your entitlement to the exemption at the time of crossing along with any registration details necessary for the associated exemption/concession scheme.

Even if you were eligible for an exemption from payment and were appropriately registered for the associated scheme, you are likely to still be liable for the additional fees associated with the Notice if you did not comply with the scheme rules at the time of crossing.

We will always consider the use of our discretion if you supply details and evidence of any mitigating circumstances.

**Ground four: the vehicle was used or kept without my consent, eg stolen.**

This ground is defined as follows

*That the vehicle had been used or kept or permitted to be used to cross the Tamar Bridge or Torpoint Ferry by a person who was in control of the vehicle without the consent of the registered keeper.*

It is the registered keeper, or if a hire company has transferred liability, the nominated hirer, who is liable for the Notice. You cannot rely on the fact that you may not have been the driver, or that someone borrowed the car.

If your vehicle was stolen or you had not permitted the use of the vehicle at the time of the contravention, then please make a representation. However, you will need to provide evidence to support your claim. (eg, If stolen please provide details a crime report and the name of the police station to which the crime was reported, the date the vehicle was stolen and if applicable, the date of recovery)

We will always consider the use of our discretion if you supply details and evidence of any mitigating circumstances.

**Ground five: the fee recorded on the notice exceeds the amount payable in the circumstances of the case, eg I have been requested to pay a penalty charge amount above that authorised by the Tamar Bridge and Torpoint Ferry Joint Committee and/or the Toll Order in place at the time of crossing.**

This may mean that you are being asked to pay a penalty charge amount above that which has been authorised . Reasons would include:

- The overall amount shown on the Notice is incorrect (eg an error in calculation) - please provide a copy of the Notice
- The toll payable for the vehicle is different to that recorded on the Notice (eg, the vehicle is classified differently within the toll order to that listed on the Notice)
- You paid the toll and the appropriate fee - please provide proof of payment. If you have a receipt please provide this or if not, confirmation that the money has been taken from your account. Remember you need to have allowed time for the payment to have been received.

We will always consider the use of our discretion if you supply details and evidence of any mitigating circumstances.

**Ground six: we are a vehicle hire firm and the vehicle was hired under an agreement at the time and the person liable signed a statement of liability for any resulting penalty charges.**

This ground is defined as follows

*That the recipient is a vehicle-hire firm and the vehicle in question was at the material time hired from that firm under a hiring agreement; and*

*The person hiring it had signed a statement of liability acknowledging his liability in respect of any Penalty Charge or similar Notice imposed in relation to the vehicle during the currency of the hiring agreement and;*

We reiterate the requirement to make this representation within 28 days of from the date of Service of the Notice.

If you are the registered keeper of the vehicle, and want to transfer liability to the hirer, we rely on Schedule 2 of the Road Traffic (Owner Liability) Regulations 2000 which restricts that transfer of liability only if a hire agreement can be provided that shows you, as the registered keeper, have entered into an agreement with a hirer to hire the vehicle and the agreement fully meets the requirements of Section 66 of the Road Traffic Offenders Act 1988, and

- The vehicle is on hire for a period of less than five months, and
- The agreement has a signed statement of liability and
- The hire agreement has all the relevant information on it where relevant as defined in Schedule 2 of the Road Traffic (Owner Liability) Regulations 2000
- A director of a hire company cannot transfer liability from themselves where they are the registered keeper of the vehicle using the 'company hire agreement'. This is because as a director you are a separate legal entity to the hire company and the hire agreement is not sufficient to transfer liability away from you.

Particulars required in a hiring agreement to comply with Section 66 of the Road Traffic Offenders Act 1988.

Particulars of person signing statement of liability

- Full name
- Date of birth
- Permanent address
- Address at time of hiring (if different from 3 above and stay is likely to be more than two months from date of hiring)
- Details of driving licence:
- country where issued (if not UK)
- serial number or driver's number
- date of expiry (which should be no later than date specified in B7 below)
- If the person taking possession of the vehicle is not the same as the person by or on whose behalf the statement was signed, the full name of that person should also be supplied (if known).

#### Particulars of hiring agreements

- Vehicle registration mark of vehicle hired under the hiring agreement
- Make and model of vehicle hired under the hiring agreement
- Vehicle registration mark of any vehicle substituted for the above during the currency of the hiring agreement
- Make and model of any vehicle substituted for the above during the currency of the hiring agreement
- Time and date of any change of vehicle
- Time and date of commencement of original hiring period
- Expected time and date of expiry of original hiring period
- Time and date of commencement of authorised extension of hiring period\*
- Expected time and date of expiry of authorised extension of hiring period\*
- Actual time and date of return of vehicle (or when vehicle returned out of hours; time and date on which vehicle hire firm next opened for business)\*

\* This requirement applies only to the vehicle hire firm's copy of the hiring agreement.

We will always consider the use of our discretion if you supply details and evidence of any mitigating circumstances.

**Mitigation and discretion: if none of the six grounds are applicable you may still make a representation to us, explaining your circumstances and we will carefully consider these.**

If none of the six grounds are applicable you may still make a representation to us, explaining your circumstances and we will carefully consider these.

We will consider mitigating circumstances and in reaching any decision will always consider the use of our discretion.

Below are examples of circumstances where we have rejected a representation:

- Not paying the toll but with no mitigating circumstances for this
- Not knowing how to pay the toll
- Not meaning to use the bridge or ferry but crossing as a result of getting lost
- Disapproval of the toll
- Not knowing about the toll
- That a payment means other than that which is Legal Tender was offered at the time of crossing
- Paying toll via a third party, including and not limited to unauthorised/scam websites
- That an employee's employment terms and conditions with you as registered keeper require that the employee settles fees, fines and notices associated with use of the vehicle
- Seeking a discount of the associated fee on the basis that early payment was not made due to a lack of knowledge, forgetfulness, inconvenience or because of attempted payment to an unauthorised or scam websites

If these circumstances match yours then we recommend that you pay the Notice and remember to have the means to pay the toll at the time of crossing in the future through official channels only. If you are a regular user you may wish to register for our TamarTag scheme.

We do not authorise any third-party website partners to pay our toll. We are not responsible for any charge payment error or failure that may occur if you use such a website to purchase a charge or where they may purchase the charge on your behalf. We will consider any representations made in these instances on a case-by-case basis. In all cases you would need to consider and provide full supporting evidence that shows your payment, such as bank or credit card statement and any receipt showing the date of travel.

We are unlikely to accept any representations made where you state you paid the toll via a third party, including and not limited to unofficial websites where you cannot provide a receipt and proof you made the payment.

If, however there are mitigating circumstances which meant that you could not pay or had to cross in an emergency then we may consider these so please make a representation. You will need to explain the circumstances that prevented you from paying and you should provide supporting evidence to demonstrate the emergency. For example, you may have been prevented from paying the toll due to a medical emergency or made a genuine attempt to pay the toll by an acceptable means. Where this is the case, you should explain the circumstances as fully as possible and enclose as much evidence as possible to support your case.